

**IN THE DRAWINGS**

Please amend the drawings as follows:

The attached sheets of drawings include changes to Figures 3 and 6. These sheets replace the original sheets including Figures 3 and 6. In Figure 3, element 310 contained a typographical error, which has been corrected. Specifically, the word “empty” has been replaced with the correct word “employ.” In Figure 6, elements 612 and 626 contained typographical errors, namely unintentional misplacements of the “YES” element on the decision blocks, which have been corrected.

## REMARKS

Claims 1-39 are pending in the present application. In the Office Action mailed January 10, 2006, the Examiner rejected claims 1, 14, 17, 21, 33, and 39 under 35 U.S.C. § 102. The Examiner also rejected claims 2-5, 7-10, 12, 13, 15, 16, 18, 22, 24, 25-28, 30, 31, 35, and 36 under 35 U.S.C. § 103.

In the above amendments, claims 1, 21, and 39 have been amended to recite detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time.” Support for these amendments may be found in Applicants’ specification on page 16, paragraph [0053]. The specification and drawings have also been amended, as will be discussed below.

Applicants respectfully respond to this Office Action.

### A. Allowable Subject Matter

The Examiner indicated that claims 6, 11, 19, 20, 23, 29, 32, 34, 37, and 38 would be allowable if rewritten in independent form. Claims 6, 11, 19, 23, 29, 32, 34, and 37 have been rewritten in independent form including all of the limitations of their rejected base claim and any intervening claims. Claims 20 and 38 have not been rewritten in independent form, as these claims depend directly from allowable claims 19 and 37 respectively. Allowance of claims 6, 11, 19, 20, 23, 29, 32, 34, 37, and 38 is respectfully requested.

### B. Drawings

Applicants submit that the above amendments to the drawings do not make any substantive changes or introduce any new material but are simply the correction of typographical errors, which are consistent with the specification as originally submitted. Therefore, approval and entry of the above amendments are respectfully requested.

### C. Specification

Applicants provide herewith amendments to the specification. The amendment to the specification is made by presenting a marked up replacement paragraph which identifies changes made relative to the immediate prior version.

The changes made are typographical in nature.

Applicants believe these changes add no new matter to the application and are fully supported by the original disclosure.

D. Rejection of Claims 1, 14, 17, 21, 33, and 39 Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1, 14, 17, 21, 33, and 39 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,944,449 to Gandhi et al. (hereinafter, “Gandhi”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (Aug. 2001) (quoting Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” Id. (quoting Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” In re Paulsen, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Gandhi. Gandhi does not disclose all of the limitations in these claims.

As amended, claims 1, 21, and 39 recite detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time.” Applicants respectfully submit that Ghandi does not disclose each and every element of these claims. Specifically, Ghandi does not disclose detecting “an overload as a result of one of the parameters crossing a threshold for an entire period of time,” as recited in claims 1, 21, and 39.

In connection with the rejection of claim 2, the Examiner correctly points out that Ghandi “fails to disclose wherein the overload is detected as a result of the parameter exceeding a threshold **for a period of time.**” Office Action, page 6 (emphasis added). Applicants submit that the Examiner has not cited, nor can Applicants find, any portion of Ghandi that discloses “detecting an overload as a result of one of the parameters crossing a threshold “for an entire

period of time,” as recited in claims 1, 21, and 39. Therefore, Ghandi does not disclose each and every element as set forth in the claims 1, 21, and 39.

In view of the foregoing, Applicants respectfully submit that independent claims 1, 21, and 39 are patentably distinct from Ghandi. Accordingly, Applicants respectfully request that the rejection of this claim be withdrawn.

Claims 14 and 17 depend either directly or indirectly from claim 1. Claim 33 depends directly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 14, 17, and 33 be withdrawn for at least the same reasons as those presented above in connection with claims 1, 21, and 39.

E. Rejection of Claims 2, 3, and 22 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 2, 3, and 22 under 35 U.S.C. § 103(a) based on Gandhi in view of U.S. Publication No. 2004/0209623 to Sauter et al. (hereinafter, “Sauter”). This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As amended, claims 1 and 21 recite detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time.” Applicants respectfully submit that neither Ghandi nor Sauter discloses, teaches, or suggests all the limitations of these claims. Specifically, the cited references do not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21.

In the Office Action, the Examiner correctly points out that Ghandi “fails to disclose wherein the overload is detected as a result of the parameter exceeding a threshold for a period of time.” Office Action, page 6. Applicants submit that Ghandi likewise fails to disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21.

However, the Examiner asserts that “Sauter discloses … checking the load condition in regular time periods and barring access classes depending if a load threshold value is exceeded or not.” *Id.* Apparently, the Examiner believes that “checking the load condition in regular time periods” to determine “if a load threshold value is exceeded” is the same as detecting an overload “as a result of [a parameter] exceeding the threshold for a period of time,” as recited in claims 2 and 22.

Sauter does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21. Checking “in regular time periods” is not the same as “for an entire period of time,” as recited in claims 1 and 21. Rather, checking “in regular time periods,” as disclosed by Sauter, connotes checking only at the beginning and end of the time period.

The Examiner cited the following lengthy portion of Sauter, in support of her assertion:

According to the invention, at least one of a plurality of access classes is assigned on a random basis to the individual mobile subscribers, and in a situation of a detected overload of the network, a first number of access classes is barred for a predetermined time period by respective signalisation from the base station to the mobile subscribers. The mobile subscribers whom the respective access classes have been assigned to are barred from access to the network. Upon expiry of the predetermined time period, the network load is checked again, and the number of barred access classes is adjusted, resulting in an increase or decrease of the number of barred access classes and respective mobile subscribers whom the

respective access classes have been assigned to. This is dependent on whether the currently detected level of network load is above or below a predetermined threshold value.

Further, each of said predetermined time periods is partitioned into regular intervals, and at the expiry of each interval the selection of barred access classes, i.e. the composition of the set of barred access classes, is readjusted on a rotating basis so that a mobile subscriber belonging to an access class which has been barred in one of said intervals may have access to the network in the subsequent interval, whereas a mobile subscriber who was enabled to communicate in the first mentioned interval may be barred in the subsequent interval.

In summary, the size of the set of blocked access classes is variable in dependence on the severity of the overload condition, and the composition of the set of access classes blocked is changed on a rotating basis to allow access for all mobile subscribers during a time period even during an overload condition.

Sauter, page 1, paragraphs [0008]-[0010]. Applicants respectfully submit that this portion of Sauter does not disclose, teach, or suggest detecting “an overload as a result of one of the parameters crossing a threshold for an entire period of time,” as recited in claims 1 and 21. Rather, this portion simply discloses that “[u]pon expiry of the predetermined time period, the network load is checked again.” As shown above, rechecking “[u]pon expiry of the predetermined time period” is not the same as “for an entire period of time,” as recited in claims 1 and 21.

Sauter later discloses that “[u]pon determination of the ‘beginning of congestion’ ... a 3-minutes timer is set. At the end of the time period set by the 3-minutes timer, the BSC checks again whether congestion is still existent.... After the expiry of another 3-minutes time period, the network load level is checked again by the BSC ....” Sauter, page 2, paragraphs [0025]-[0027]. Again, merely rechecking “at the end of the time period” is not the same as “for an entire period of time,” as recited in claims 1 and 21. Furthermore, re-rechecking “[a]fter the expiry of another 3-minutes time period” is not the same as “for an entire period of time,” as recited in claims 1 and 21. Rather, as shown above, Sauter merely discloses “checking the load condition” at the beginning of a “predetermined time period” and rechecking “the load condition” at the end of “the predetermined time period.” Therefore, Sauter is only “checking the load condition” at the beginning or end of a “predetermined time period,” not detecting an overload as a result of

one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21. Therefore, like Ghandi, Sauter does not disclose, teach, or suggest all of the limitations of claims 1 and 21.

In view of the foregoing, Applicants respectfully submit that claims 1 and 21 are patentably distinct from the cited references. Claims 2 and 3 depend either directly or indirectly from claim 1. Claim 22 depends directly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 2, 3, and 22 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 21.

F. Rejection of Claims 4, 5, 24 and 25 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 4, 5, 24 and 25 under 35 U.S.C. § 103(a) based on Gandhi in view of Sauter and further in view of U.S. Publication No. 2003/0125068 to Lee et al. (hereinafter, “Lee”). This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As discussed above, the Examiner's proposed combination of Ghandi and Sauter does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21. Applicants respectfully submit that Lee likewise does not disclose, teach, or suggest this claim limitation.

Applicants submit that the Examiner has not cited, nor can Applicants find, any portion of Lee that discloses, teaches, or suggests this claim limitation. Therefore, none of the cited references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21.

In view of the foregoing, Applicants respectfully submit that claims 1 and 21 are patentably distinct from the cited references. Additionally, claims 4 and 5 depend indirectly from claim 1 and claims 24 and 25 depend indirectly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 4, 5, 24 and 35 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 21.

G. Rejection of Claims 7-9 and 26-28 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 7-9 and 26-28 under 35 U.S.C. § 103(a) based on Gandhi in view of U.S. Publication No. 2003/0003921 to Laakso (hereinafter, “Laakso”). This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As discussed above, Ghandi does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21. Applicants respectfully submit that Laakso likewise does not disclose, teach, or suggest this claim limitation.

Applicants submit that the Examiner has not cited, nor can Applicants find, any portion of Laakso that discloses, teaches, or suggests this claim limitation. Therefore, none of the cited references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21.

In view of the foregoing, Applicants respectfully submit that claims 1 and 21 are patentably distinct from the cited references. Additionally, claims 7-9 depend either directly or indirectly from claim 1 and claims 26-28 depend either directly or indirectly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 7-9 and 26-28 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 21.

H. Rejection of Claim 10 Under 35 U.S.C. § 103(a)

The Examiner rejected claim 10 under 35 U.S.C. § 103(a) based on Gandhi in view of U.S. Patent No. 6,442,398 to Padovani et al. (hereinafter, “Padovani”). This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claim at issue is patentably distinct

from the cited references. The cited references do not teach or suggest all of the limitations in this claim.

As discussed above, Ghandi does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claim 1. Applicants respectfully submit that Padovani likewise does not disclose, teach, or suggest this claim limitation.

Applicants submit that the Examiner has not cited, nor can Applicants find, any portion of Padovani that discloses, teaches, or suggests this claim limitation. Therefore, none of the cited references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claim 1.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from the cited references. Additionally, claim 10 depends directly from claim 1. Accordingly, Applicants respectfully request that the rejection of claim 10 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

#### I. Rejection of Claims 12 and 30 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 12 and 30 under 35 U.S.C. § 103(a) based on Gandhi in view of U.S. Patent No. 6,707,792 to Volftsun et al. (hereinafter, “Volftsun”). This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As discussed above, Ghandi does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21. Applicants respectfully submit that Volftsun likewise does not disclose, teach, or suggest this claim limitation.

Applicants submit that the Examiner has not cited, nor can Applicants find, any portion of Volftsun that discloses, teaches, or suggests this claim limitation. Therefore, none of the cited

references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21.

In view of the foregoing, Applicants respectfully submit that claims 1 and 21 are patentably distinct from the cited references. Additionally, claim 12 depends directly from claim 1 and claim 30 depends directly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 12 and 30 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 21.

J. Rejection of Claims 13 and 31 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 13 and 31 under 35 U.S.C. § 103(a) based on Ghandi in view of U.S. Patent No. 6,785,546 to Djuric (hereinafter, “Djuric”). This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As discussed above, Ghandi does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21. Applicants respectfully submit that Djuric likewise does not disclose, teach, or suggest this claim limitation.

Applicants submit that the Examiner has not cited, nor can Applicants find, any portion of Djuric that discloses, teaches, or suggests this claim limitation. Therefore, none of the cited references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21.

In view of the foregoing, Applicants respectfully submit that claims 1 and 21 are patentably distinct from the cited references. Additionally, claim 13 depends directly from claim 1 and claim 31 depends directly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 13 and 31 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 21.

K. Rejection of Claims 15 and 35 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 15 and 35 under 35 U.S.C. § 103(a) based on Gandhi in view of Laakso and further in view of Djuric. This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As discussed above, neither the Examiner's proposed combination of Ghandi and Laakso nor the Examiner's proposed combination of Ghandi and Djuric discloses, teaches, or suggests detecting an overload as a result of one of the parameters crossing a threshold "for an entire period of time," as recited in claims 1 and 21. Therefore, Applicants respectfully submit that none of the cited references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold "for an entire period of time," as recited in claims 1 and 21.

In view of the foregoing, Applicants respectfully submit that claims 1 and 21 are patentably distinct from the cited references. Additionally, claim 15 depends directly from claim 1 and claim 35 depends directly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 15 and 35 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 21.

L. Rejection of Claims 16 and 36 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 16 and 36 under 35 U.S.C. § 103(a) based on Gandhi in view of Laakso further in view of Djuric and further in view of Padovani. This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As discussed above, the Examiner's proposed combination of Ghandi, Laakso, and Djuric does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold "for an entire period of time," as recited in claims 1 and 21. Likewise, as

shown above, Padovani does not disclose this claim element. Therefore, Applicants respectfully submit that none of the cited references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claims 1 and 21.

In view of the foregoing, Applicants respectfully submit that claims 1 and 21 are patentably distinct from the cited references. Additionally, claim 16 depends indirectly from claim 1 and claim 36 depends indirectly from claim 21. Accordingly, Applicants respectfully request that the rejection of claims 16 and 36 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 21.

M. Rejection of Claim 18 Under 35 U.S.C. § 103(a)

The Examiner rejected claim 18 under 35 U.S.C. § 103(a) based on Gandhi in view of U.S. Publication No. 2002/0155852 to Bender et al. (hereinafter, “Bender”). This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claim at issue is patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in this claim.

As discussed above, Ghandi does not disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claim 1. Applicants respectfully submit that Bender likewise does not disclose, teach, or suggest this claim limitation.

Applicants submit that the Examiner has not cited, nor can Applicants find, any portion of Bender that discloses, teaches, or suggests this claim limitation. Therefore, none of the cited references disclose, teach, or suggest detecting an overload as a result of one of the parameters crossing a threshold “for an entire period of time,” as recited in claim 1.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from the cited references. Additionally, claim 18 depends indirectly from claim 1. Accordingly, Applicants respectfully request that the rejection of claim 18 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

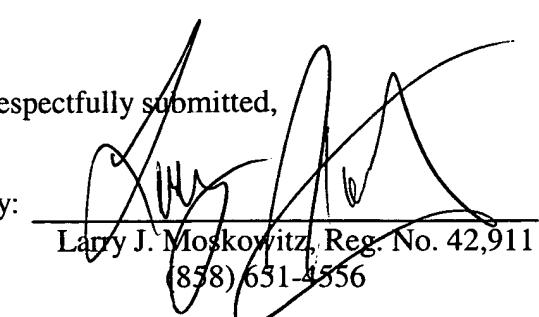
**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Dated: April 7, 2006

Respectfully submitted,

By:

  
Larry J. Moskowitz, Reg. No. 42,911  
(858) 651-4556

QUALCOMM Incorporated  
5775 Morehouse Drive  
San Diego, California 92121  
Telephone: (858) 651-4125  
Facsimile: (858) 658-2502